

## INITIAL STATEMENT OF REASONS

a) Specific Purpose of the Regulations and Factual Basis for Determination that Regulations Are Necessary

Section 47-201.3

Specific Purpose:

This section is amended to adopt the provision that the preferred placement for 11- or 12-year-old children, except for children with exceptional needs, who are otherwise eligible for subsidized child care services shall be in a before or after school program.

Factual Basis:

This revision is necessary to implement Senate Bill (SB) 68, Chapter 78, Statutes of 2005, which amended Education Code Section 8263.4 and became effective on July 19, 2005. Education Code Section 8263.4 states that the preferred placement of 11- or 12-year-old children shall be in a before or after school program.

Sections 47-201.31 through .361

Specific Purpose:

These sections are added to implement the procedures that county welfare departments (CWDs) must follow regarding the child care placement of 11- or 12-year-old children.

- Children who are 11 or 12 years old are eligible for subsidized child care only during the portion of the day that the before or after school program does not meet the child care needs of the family.
- Counties shall allow families to combine subsidized child care with a before or after school program as it fits the child care needs of the family.
- Children who are 11 or 12 years old and who are otherwise eligible shall continue to receive subsidized child care services if the before or after school program does not meet the family's child care needs.
- Counties must provide written notification to families with children who are at least 10 years and 10 months old that the preferred placement is in a before or after school program.
- If the before or after school program does not meet the needs of the family, the parent must certify in writing that the program does not meet their needs and provide the

reason(s) why. The parent must complete, sign, and return the certification form to the CWD within 30 calendar days of the date on the form.

- If a completed form is not returned within 30 days, the CWD must issue a Notice of Action terminating subsidized child care services.
- Families that move their 11- or 12-year-old child to a before or after school program shall have first priority should the child need to return to subsidized child care.
- The preferred placement does not apply to 11- or 12-year-old children with disabilities.

Factual Basis:

These regulations are necessary to implement the procedures outlined in Section 8263.4 of the Education Code, which are as follows:

“8263.4(a) The preferred placement for children who are 11 or 12 years of age and who are otherwise eligible for subsidized child care services shall be in a before or after school program.

“(b) Children who are 11 or 12 years of age shall be eligible for subsidized child care services only for the portion of care needed that is not available in a before or after school program. The county welfare department (CWD) shall provide each family of an eligible 11- or 12-year-old child with the option of combining care provided in a before or after school program with subsidized child care in another setting, for those hours within a day when the before or after school program does not operate, in order to meet the child care needs of the family.

“(c) Children who are 11 or 12 years of age, who are eligible for and who are receiving subsidized child care services, and for whom a before or after school program is not available, shall continue to receive subsidized child care services.

“(d) A before or after-school program shall be considered not available when a parent certifies in writing, on a form provided by the CWD, the reason or reasons why the before or after school programs would not meet the child care needs of the family.

“(e) Families that move their 11- or 12-year-old child from subsidized care to a before or after school program have priority to return to subsidized child care. If the child is disenrolled from the before or after school program or the program no longer meets the child care needs of the family, that child shall receive first priority to return to a subsidized child care program.

“(f) This section does not apply to an 11- or 12-year-old child with a disability, including a child with exceptional needs who has an individual education plan as required plan as required by the Individuals with Disabilities Education Act (20 U.S.C. Section 1400), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794), or Part 30 (commencing with Section 56000) of this code.”

#### Section 47-401.1

##### Specific Purpose:

This section is amended to reflect the change in the maximum payment rate from no more than 1.5 market standard deviations to up to 85 percent of the regional market rate (RMR), the rate charged by providers who offer the same type of child care for the same age child in that region.

##### Factual Basis:

These amendments are required by Budget Act 2003, Chapter 157, Statutes of 2003, Item 6110-196-0001, Provision 7(b), which directed the California Department of Education to promulgate regulations governing the use of the RMR to provide consistency statewide and to clarify the appropriate rate of reimbursement for child care services. The same provision of the Budget Act directed the California Department of Social Services to take appropriate steps to ensure that the regulations apply to the CalWORKs Stage One Child Care Program. This revision ensures a seamless transition between the stages of child care by amending language that changes the maximum payment rate from 1.5 standard deviations to the 85th percentile as directed by the Budget Act of 2003, Chapter 157, Statutes of 2003, Item 6110-196-0001, Provision 7(c).

#### Sections 47-401.11 and .12 (Handbook)

##### Specific Purpose/Factual Basis:

These handbook sections are added to explain what the maximum payment rate for all child care costs shall be. These handbook sections also refer interested parties to the regulations that support the provision which are found in the California Code of Regulations, Title 5, Division 1, Chapter 19, Subchapter 2.5, Sections 18074 to 18076.3.

#### Section 47-401.44

##### Specific Purpose:

This section is amended to delete the language “at county option.” The current language provides counties the option to reimburse for child care when a child is ill. Statute does not provide counties with this option.

Factual Basis:

This amendment is necessary for the CalWORKs regulations to be consistent with the Education Code, Section 8208(e), which states that reimbursable attendance includes excused absences for illness or quarantine of the child or the child's parent.

Section 47-401.71

Specific Purpose:

This section is amended to allow for new language pertaining to the conditions and time restrictions for exemption from family fees.

Factual Basis:

This amendment is necessary to implement SB 1104, Chapter 229, Statutes of 2004, which amended Sections 8263(b)(1) and (f) of the Education Code and became effective on August 16, 2004.

Section 47-407.711

Specific Purpose:

This section is added to adopt the provision that families with children at risk of abuse, neglect, or exploitation, at the request of a legally qualified professional, are exempt from paying a family fee for a period of up to three months.

Factual Basis:

This section is necessary to implement SB 1104, Chapter 229, Statutes of 2004, which amended Sections 8263(b)(1) and (f) of the Education Code and became effective on August 16, 2004. These sections state that a family receiving subsidized child care on the basis of a child being at risk of abuse, neglect, or exploitation can receive child care services and an exemption from family fees for up to three months.

Section 47-401.712

Specific Purpose:

This section is added to adopt the provision that families with children receiving child protective services, at the request of a child welfare services worker, are exempt from paying a family fee for a period of up to 12 months.

Factual Basis:

This section is necessary to implement SB 1104, Chapter 229, Statutes of 2004 which amended Sections 8263(b)(1) and (f) of the Education Code and became effective on August 16, 2004. These sections state that a family receiving subsidized child care on the basis of a child receiving child protective services can receive child care services and an exemption from family fees for up to 12 months.

Section 47-401.713

Specific Purpose:

This section is added to adopt the provision that the cumulative time period of exemption from family fees shall not exceed 12 months.

Factual Basis:

This amendment is necessary to implement SB 1104, Chapter 229, Statutes of 2004 which amended Sections 8263(b)(1) and (f) of the Education Code and became effective on August 16, 2004. These sections state that a family receiving subsidized child care on the basis of a child receiving child protective services may be exempt from paying a family fee for up to 12 months. The family may continue to receive subsidized child care services if the county child welfare agency certifies that child care services continue to be necessary or the family remains otherwise eligible for services; however, an exemption from family fees cannot exceed 12 cumulative months.

Education Code Sections 8263(b)(1) and (f) also state that a family receiving subsidized child care on the basis of a child being at risk of abuse, neglect, or exploitation may be exempt from paying a family fee for up to three months. The family may continue to receive child care services and be exempt from family fees for up to 12 months if the county child welfare agency certifies that the child is receiving child protective services and requires child care or the family remains otherwise eligible for services. However, the cumulative time period for exemption from family fees is 12 months.

Section 47-401.8 (Handbook)

Specific Purpose:

This handbook section is revised to replace the September 2000 family fee schedule with a reference to the regulations that support the provision which are found in the California Code of Regulations, Title 5, Division 1, Chapter 19, Subchapter 3, Article 5.

Factual Basis:

The family fee schedule is established by the Superintendent of Public Instruction pursuant to Education Code Section 8263(f). Education Code Section 8447(e) requires the California Department of Education to adjust the family fee schedule annually.

Section 47-401.9

Specific Purpose:

Current language provides counties the option to pay for child care during an excused absence. This section is amended to delete the language “have the option to.” Statute does not provide counties the authority to choose whether to reimburse for excused absences.

Factual Basis:

This revision is necessary for CalWORKs regulations to be consistent with Education Code Section 8208(e), which states that reimbursable attendance includes excused absences for illness or quarantine of the child or the child’s parent.

b) Identification of Documents Upon Which Department Is Relying

AB 1765, Budget Act of 2003, Chapter 157, Statutes of 2003, Provision 7(b) and (c) of Item 6110-196-0001

SB 1104, Chapter 229, Statutes of 2004 (Education Code Sections 8263(b) and (f))

SB 68, Chapter 78, Statutes of 2005 (Education Code Section 8263.4)

Education Code Sections 8208(e) and 8357

c) Local Mandate Statement

These regulations impose a mandate on local agencies and school districts. There are no state-mandated costs in these regulations which require state reimbursement under Section 17500, et seq. of the Government Code.

d) Statement of Alternatives Considered

CDSS must determine that no reasonable alternative considered or that has otherwise been identified and brought to the attention of CDSS would be more effective in carrying out the purpose for which the regulations are proposed or would be as effective and less burdensome to affected private persons than the proposed action.

e) Statement of Significant Adverse Economic Impact On Business

CDSS has made an initial determination that the proposed action will not have a significant, statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.